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TRANSMITTAL FORM

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Total Number of Pages in This Submission

9

Application Number

09/349,380

Filing Date

July 9, 1999

First Named Inventor

Jasper, John P.

Art Unit

1743

Examiner Name

Siefke, Samuel P.

Attorney Docket Number

JASJ-1

ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☐

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐

Reply to Missing Parts/
Incomplete Application

☐

Reply to Missing Parts
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐

Petition to Convert to a
Provisional Application

☐

Power of Attorney, Revocation
Change of Correspondence Address

☐

Terminal Disclaimer

☐

Request for Refund

☐

CD, Number of CD(s) _____

☐ Landscape Table on CD

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After Allowance Communication to TC

☐

Appeal Communication to Board
of Appeals and Interferences

☐

Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☒

Other Enclosure(s) (please identify
below):

Remarks

1. Statement of the Substance of the Interview
2. Statement of the Substance of the Interview
3. Letter to the Examiner

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Krieg DeVault Lundy LLP

Signature

Printed name

David A. Lundy

Date

10/03/2005

Reg. No.

22,162

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Michelle Birk

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Michelle Birk

Date

10/03/2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No. 48,537

Group: 1743

Confirmation No.: 6566

Application No.: 09/349,380

Title of Invention: A STABLE ISOTOPIC
IDENTIFICATION AND METHOD
FOR IDENTIFYING PRODUCTS
BY ISOTOPIC
CONCENTRATION

Inventor: Jasper, John P.

Filed: July 9, 1999


Attorney Docket: JASJ-1

Examiner: Siefke, Samuel P.

Certificate Under 37 CFR 1.8(a)

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on 10/31/2005


(Signature)

Michelle Birk
(Printed Name)

LETTER TO THE EXAMINER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop: Amendment

Sir:

This letter is being written and filed after an unsuccessful attempt to contact the Examiner by telephone on September 26, 2005 to discuss (1) the receipt of Interview Summaries that did not occur, (2) Applicant's intent in filing their Request for Continued Examination and (3) the curious receipt of the Notice of Non Compliant Amendment

relating to the Amendment filed on July 25, 2005. Examiner Siefke did not return this phone call as requested by Applicant's attorney.

Applicant's attorney has received attached to the "Advisory Action Before Filing of an Appeal Brief" dated July 6, 2005 and August 25, 2005 Interview Summaries that are inaccurate and are directed to interviews between Applicant's attorney and Examiner Samuel P. Siefke on dates on which no interview occurred and relate to a description of the substance of an interview on which no interview occurred.

Applicant's attorney and Applicant have had only two interviews with the Examiner. One interview on June 22, 2004 at the Patent Office in Alexandria, Virginia and a telephone interview between only the Examiner and Applicant's attorney on September 15, 2005. In order to clarify which interviews actually occurred and which did not, Applicant has filed Interview Summaries with regard to each of these interviews.

As a result of the Examiner's refusal to enter the amendments proposed in the Amendment Under Rule 116 dated June 1, 2005 and the amendments proposed in the Amendment filed on July 20, 2005, Applicant filed a Request for Continued Examination on September 7, 2005. Inasmuch as both of the-above identified Amendments Under Rule 116 were filed in response to the Office Action dated May 4, 2005, a statement was made on the Request for Continued Examination filed on September 7, 2005 that:

"Applicant request non-entry of the Amendment filed on June 20, 2005."

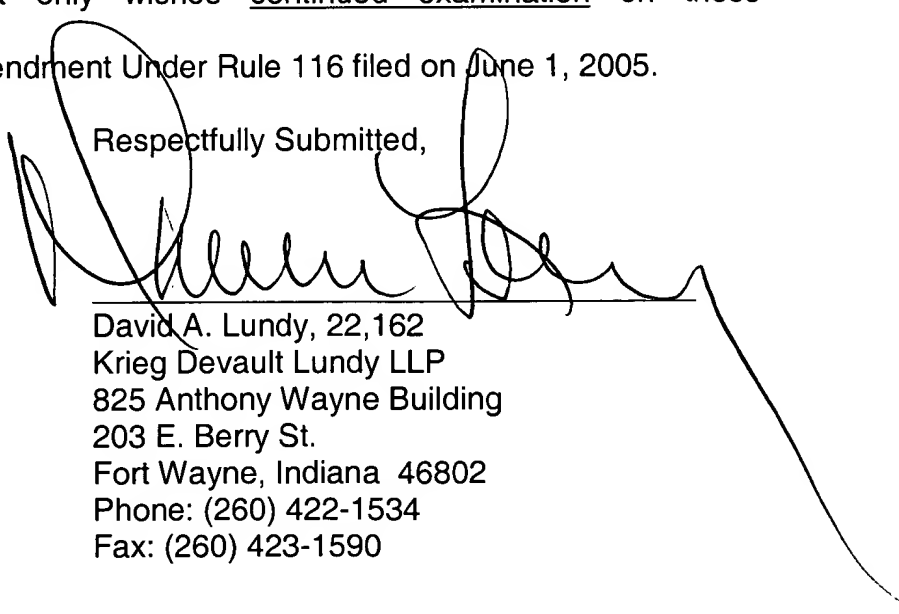
The dated June 20, 2005 was in error and should have read "July 20, 2005." Applicant wanted the amendments proposed in the Amendment Under Rule 116 filed on June 1, 2005 to be entered and prosecution on those amendments to occur. Becoming aware

that this error was made on September 26, 2005, Applicant filed a Supplemental Amended Request for Continued Examination in which Applicant stated:

"Please enter amendments found in Amendment Under Rule 116 filed on June 1, 2005 (6-1-05) * * * Applicant requests non-entry of the Amendment filed on July 20, 2005.

On September 23, 2005, Applicant received a Notice of Non Compliant Amendment (37 CFR 1.121) relating to the Amendment filed on July 25, 2005 (Amendment dated July 20, 2005). Even though Applicant requested in the Supplemental Amended Request for Continued Examination that the amendments proposed in this Amendment not be entered but only the amendments found in the Amendment Under Rule 116 filed on June 1, 2005 be entered, Applicant refiled the Amendment originally filed on July 25, 2005 on September 26, 2005 rendering that Amendment compliant even though Applicant wishes the Examiner to understand that by the Request for Continued Examination filed on September 7, 2005 and refiled on September 26, 2005 Applicant only wishes continued examination on those amendments proposed in the Amendment Under Rule 116 filed on June 1, 2005.

Respectfully Submitted,



David A. Lundy, 22,162
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No. 48,537

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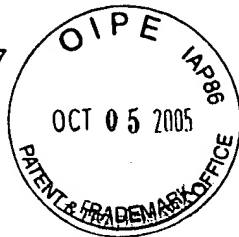
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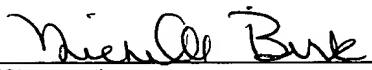
Examiner: Siefke, Samuel P.



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on 10/3/2005


(Signature)

Michelle Birk
(Printed Name)

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop: Amendment

Sir:

Applicant has received an Interview Summary attached to the Advisory Action dated August 25, 2005.

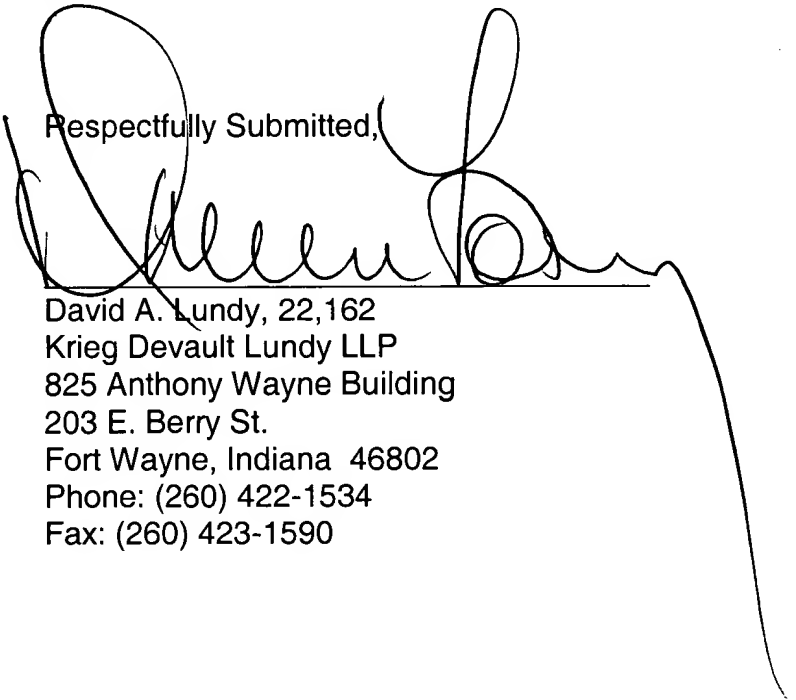
The Interview Summary indicates that the Examiner had a telephone interview with Applicant's attorney on August 19, 2005, in which all of the claims were discussed, no agreement as to the claims was reached and that Applicant's attorney was informed that the amendments would not be entered because the amendments raised new

issues that would require further search and consideration. No "fuller description" and no copies of amendments that would render the claims allowable or no summary were attached.

Applicant's attorney has absolutely no recollection of any telephone conversation with the Examiner on August 19, 2005 with regard to the above-identified application. Applicant's attorney has checked the firm's telephone records in which each telephone call received by the firm is logged each day. That record reflects that no telephone call was received from the Examiner on August 19, 2005.

Applicant's attorney has no recollection of talking to either Examiner Siefke or Examiner Warden subsequent to the filing of the Amendment Under Rule 116 dated June 1, 2005.

Respectfully Submitted,

A large, stylized handwritten signature in black ink, likely belonging to David A. Lundy, is written over the signature line and extends down the right margin of the page.

David A. Lundy, 22,162
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on 10/3/2005

Michelle Birk
(Signature)

Michelle Birk
(Printed Name)

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop: Amendment

Sir:

Applicant's attorney received a telephone call from Examiner Siefke on August 15, 2005. During this telephonic interview, the only subject discussed was Applicant's filing of all Amendments Under Rule 116 responsive to the Office Action dated May 4, 2005 on both June 1, 2005 and July 20, 2005. The Examiner requested a declaration of Applicant's intent in responding twice to the same Office Action dated May 4, 2005. Applicant's attorney explained to Examiner Siefke that the first response to the Office Action dated May 4, 2005 which was filed on June 1, 2005 was the subject of an "Advisory Action Before the

Filing of an Appeal Brief” dated July 6, 2005. In this Advisory Action the Examiner stated “The proposed amendments raise new issues that would require further consideration and search, specifically for the deletion of anthropogenically and insertion of isotopically along with inserting observed batched concentrations.” Applicant’s attorney interpreted this statement that the deletion of “anthropogenically” and the insertion of “isotopically” and the insertion of “observed batched concentrations” were the cause of the new issues being raised.

The amendment of July 20, 2005 reinserted the word “anthropogenically” into claims to present those claims for reconsideration to the Examiner. Applicant’s attorney filed this second Amendment Under Rule 116 to remove the new issues to which the Examiner referred to in his Advisory Action dated July 6, 2005.

Applicant’s attorney explained to the Examiner that his intent in responding the second time to the Office Action dated May 4, 2005 was merely to remove issues such that the Examiner could enter the amendments and pass the application onto issuance. That was the extent of the conversation between the Examiner and Applicant’s attorney. No discussion of any claims or any prior art was had between the Examiner and Applicant’s attorney, and no agreement with respect to the claims was reached.

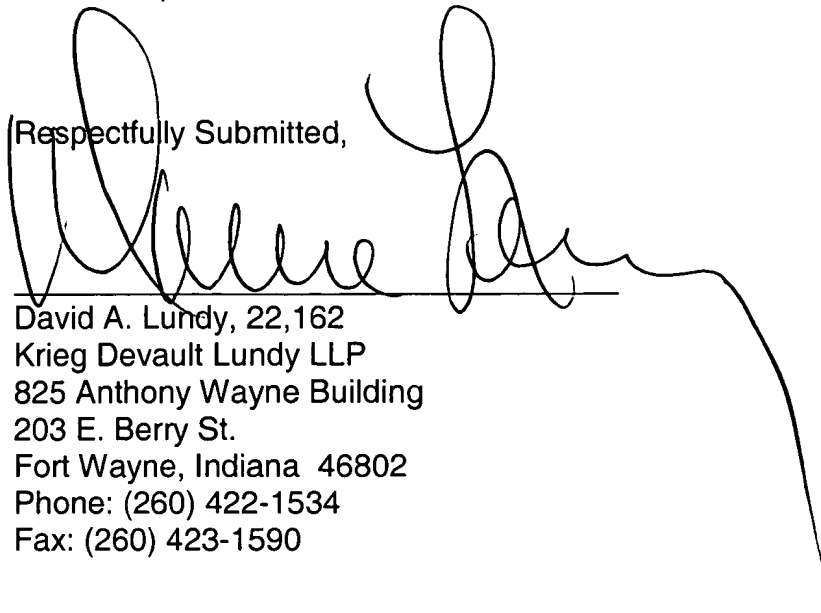
Subsequently to the interview, the Examiner issued a second “Advisory Action Before Filing of an Appeal Brief” dated August 25, 2005 again refusing to enter the amendments because they raise new issues that would require further consideration and/or search noting that:

“The proposed amendments raise new issues that this would require further consideration and search. Specifically ‘anthropogenically isotopically unaltered batched concentration’”

would require further consideration.

As a result, Applicant's attorney filed a Request for Continued Examiner (RCE) on September 7, 2005.

Respectfully Submitted,



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